

**Title: "The impact of the dialogue between public authorities and civil society organizations on the quality of governance. The legal and institutional aspects that regulates this dialog in the Republic of Moldova"**

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## **Abstract**

CSOs are a key component of an open and democratic society as they play a key role in the strengthening of democracy and the rule of law, their dialogue with the public authorities being a precondition for this. By analyzing the development of dialogue between Moldovan CSOs and Central and Local Public authorities (CPA / LPA), I found that PA are not yet fully aware of the value of the dialogue, which is sporadic and guided by certain interests, that do not always coincide with the public interest.

The key objective pursued by this research was to review the environment underlying activity and collaboration of the civil society from the standpoint of influence exerted by the internal and external factors that determine the core essence of the social environment, while paving and setting conditions for carrying out activities and collaboration between the civil society and public authorities. The paper aims to prove that more communication and collaboration between public authorities and civil society organizations, will likely result in a more inclusive, qualitative and focused act of governance. The author analyses and presents the existing decision-making systems and its consultation mechanisms with the civil society organizations in the Republic of Moldova, the existing opportunities for CSO's involvement in the public policy making process and the actual practices.

A number of research methods were used in the study, aimed at highlighting the particularities of the dialogue and cooperation between the public authorities (PA) and the CSOs, as part of the act of governance, studying the development over time and the influence of various social, economic and political factors on these processes. Thus, the historical analysis method to research the origin and evolution of the legal framework that regulates the dialogue and cooperation between PA and the CSOs was applied. It included analysis of the relevant laws, regulations and policies, together with existing reports and studies on the subject of research, in the Republic of Moldova. I found that public authorities are not yet fully aware of the value of the dialogue and the political factor is also of great influence, as in recent years there has been an increasing pressure on the civil society. The paper reflects the current situation in Moldova, which can be summarized as follows: a) there are no permanent mechanisms or platforms for cooperation and consultation, open to all. Civil society participation is limited to a small number of CSOs, and there are no incentives for the growth of CSOs. b) LPAs, compared to CPAs, enjoy a much higher level of "trust" from the society / community, but they rarely have the resources and skills to conduct a constructive dialogue with CSOs; c) there is a proven reluctance of the LPA / CPA to deepen the dialogue and cooperation with the civil society; d) The culture of participation is very weak as there is no perception that participation is an instrument of change. A number of recommendations in order to address the identified problems are listed.

***Key words:*** *civic participation, civil society organizations, cooperation, dialog, public administration*

## **Introduction**

The Republic of Moldova is a relatively "young" state; some of the fundamental institutions of the society are still in the process of formation, while the rate of participation and involvement of citizens in public life and into decision-making processes remains rather low. This conclusion refers to all of the three sectors standing out in the society – public, commercial and non-commercial. The dialogue and collaboration between them is the core element that influences and determines the entire process of building and developing of an inclusive society based on the respect of all human rights and fundamental freedoms.

Respect of all human rights allowing to exercise the freedom of association and peaceful assembly along with the freedom of expression is fostering the existence and development of a socially inclusive and efficient environment, whereby the government becomes more accountable, while the civil society acquires simulative

conditions for participation and active involvement in the decision-making process at all levels of the governance. The interaction within this system of power with the civil society organizations creates a framework of balances and controls, providing for inclusive participation of all sectors (public, commercial, non-commercial) as part of the democratic development of the society.

The content and quality of the dialogue and collaboration between civil society and government authorities is being influenced by a number of factors, mostly by such of internal nature, which, viewed separately, and in ensemble, determine the substance of the relationship between the state and civil society, in general, and with Public Administration authorities and civil society organizations, in particular. Inter alia, it is worth noticing such factors as: environmental, social and economic, serving to highlight the standards of living of the population, gaps in the educational system and shortcomings in civic engagement; legislative and regulatory challenges having regard to providing access to information and transparency in decision-making; lack of institutional mechanisms for cooperation and collaboration; insufficient funding and support granted to the CSOs; low capacity of the CSOs in offering alternative ways of participation and involvement of citizens in the decision-making process, etc.

The analysis of operation environment of the civil society organizations from the standpoint of the influence exerted by the internal and external factors determining the content of the social environment, creating and setting out activity and conditions of the civil society collaboration and dialog with the public authorities is carried out within the framework of a larger-scale study, dedicated to analyze the evolvement of the dialog between CSOs and public authorities, the role played by the CSOs in the process of governance, and, CSOs involvement in services provision at the national and local levels, participation in the process of development, implementation and monitoring of public policies, the impact of the collaboration between public administration and civil society organizations produced on the quality of governance.

This research will offer information to the stakeholders of the dialogue about the quality of the dialog, while the aspects related to outcomes of the research could be used by the practitioners involved in public administration in order to understand and raise the awareness on the realities and shortcomings as well as to learn the prospects of maintaining the dialogue and cooperation with civil society organizations. The conducted analyses serve to highlight the internal and external factors establishing and determining the general environment of activity and collaboration of civil society with the public administration.

The analysis could also be useful for civil society actors intending to improve the forms and modalities of interaction with authorities, when advocating for legislation amendment, improvement of institutional platforms and mechanisms for maintaining the dialogue and collaboration, as well as ensuring access to information and transparency and participation in the decision-making process.

The results of this study will contribute to enhancing the transparency and efficiency of the decision-making process; development of open and “friendly-minded” public institutions, focused on the public interests and prompted by the efficiency of the administration; development of a vibrant civil society, engaged in the decision-making processes; boosting the general spirit and civic activism, capable of influencing the process of making public decisions; observance and safeguarding of the general interest of the citizens.

## **Methodology**

The complex nature of the topic addressed in this research also determines the corresponding multitude of study and research methods applied. Due to the research topic belonging to the field of social sciences, the research methods used in this article are: documentary research, statistical method, comparative method and the historical method.

Research methods used, aimed at highlighting the particularities of the dialogue and cooperation between the public authorities (PA) and CSOs, as part of the act of governance, studying the development over time and the influence of various social, economic and political factors on these processes. Thus, the historical analysis method to research the origin and evolution of the legal framework that regulates the dialogue and cooperation between PA and the CSOs as part of the governance act was applied. It included the analysis of the relevant laws, regulations and policies, together with existing reports and studies on the on the subject of the research, in the Republic of Moldova. In tandem with the other research methods, the historical method allowed the formulation of conclusions and recommendations, which are important for understanding the development prospects of the civil society in the Republic of Moldova and improving the dialog with public authorities to increase the quality of the public administration exercise.

The documentary research was applied to study and analyse the national and international normative acts, policy documents, conventions, treaties, and relevant studies and research in the fields of policy making and those related to the research topic. This approach allowed the qualitative analysis of the national legal framework, but also of the international legal context, as factors that influence the environment of activity and collaboration between the civil society and the public administration.

The statistical research method was used to study the relevant processes to provide the statistical information needed to perform analyses, comparisons, but also to formulate the necessary conclusions in the research process.

## **Factors that determine the environment and quality of the relationship between public administration and civil society organizations**

Civil society is at the heart of a functioning democracy. The main interest of the state in a democratic society is to contribute to the active involvement of its citizens in the public life, creating to that end all necessary conditions and providing tools to support voluntary associations ready to contribute and engage in the decision-making on social, economic or political development issues. The main preconditions underlying the activity of civil society organizations in a democratic state are the content and quality of the relationship maintained with the public authorities (public sector) – in a rather predominant manner, but also with the private (commercial) sector, which, in the context of relations and conditions of activity created by the public sector needs all the support of the civil society organizations (non-commercial sector).

The dialogue, collaboration and joint activity of Public Administration and civil society is the key precondition making the civil society actors doing their work in such a manner that any person could benefit on the assembly of human rights (civil, cultural, economic, political and social). The key elements of the collaborative working environment for the CSOs are the fundamental rights and freedoms, as well as creation of necessary conditions to ensure support and development of the civil society. The content and quality of the relationship between public administration and civil society is paramount for defining the working environment of civil society, which is determined by a number of external and internal factors.

### **External factors**

External factors that contribute to establishing the format and quality of public administration dialogue with civil society organizations largely stem from the state's international commitments, signed bilateral and multilateral agreements, and the international platforms to which the state has acceded. Thus, in the Republic of Moldova this dialogue is influenced by the values and principles promoted by the UN and the EU, by the UN conventions to which Moldova is a party, as well as by the commitments made by the Association Agreement between the European Union and the Republic of Moldova. Thus, the dialogue between the public administration and civil society organizations is driven by the format established by these international documents, which requires Moldova to apply it at the national level. The context and the legal content of the international relations and commitments of the state, as I mentioned above, is the main factor, which requires and implies creation of economic, political, social, cultural, and legal conditions, actively supporting the competence and ability of individuals to engage, individually or through association with others, into civic activities and in a dialog with the public administration. The Moldova's UN member quality imposes the respect of the principles and values laid down in the UN conventions and resolutions, including legal ones, underpinning the international relations and define, adamantly, the domestic legal framework and the context of activity in all areas of the social environment.

*The UN Human Rights Protection System* represents the is the main element featuring the process of paving conditions for the civil society organizations to be active and engage actively into the dialog with public administration for human rights respect. Performances of the United Nations Human Rights mechanism are prompted by the communion and complementarity of several basic elements of an institutional and functional nature, which, although viewed independently, are the elements of the same mechanism and encourages the Member State to engage in a dialogue with civil society organizations in the context of respect for fundamental human rights. So, the *Office of the United Nations High Commissioner for Human Rights (OHCHR)* it is the main organization within the UN that acts to promote and protect human rights. It works closely with the United Nations funds, programmes and specialized agencies (such as the World Health Organization, the UN Refugee Agency, UNICEF,

the International Labour Organization, UNESCO, etc.) so as to maximize the impact of the human rights activity. This institution is one that, through its actions to monitor respect for human rights by each country, encourages the dialogue of national administrations with CSOs in all areas related to fundamental human rights. At the same time, *the international human rights treaties (covenants and conventions) that establish independent expert groups or platforms of NGOs, meant to regularly monitor the implementation of commitments having regard to human rights, play the role of the catalyst for public administration's dialogue with civil society organizations.* At the same time, the UN mechanism for monitoring respect for human rights and situations that may influence respect for human rights, includes the discussion of this topic on the platform of the *inter-governmental bodies or assemblies*, created by the UN member states to discuss human rights issues and situations. The main inter-governmental body for this purpose is the Human Rights Council, supported in its work by a panel of independent experts, through the so-called special procedures, as well as bearing on a mechanism called the Universal Periodic Review, *inter alia*<sup>1</sup>. Usually in the regular review procedure, the UN analyzes the reports prepared by governments, but at the same time the alternative reports prepared by civil society organizations.

*Participation of civil society organizations (CSOs) in the United Nations Human Rights mechanism at the International and national levels.* Internationally, the civil society contributes to expertise, awareness raising, as well as to monitoring and reporting on human rights issues and violations. The CSOs help to develop new human rights standards, mechanisms and institutions, as well as to mobilize resources and public support for solving the human rights issues. This process produces a strong impact on the mode and direction in which the civil society develops in the national media, but also at regional and local levels.

Civil society organizations advocating Human Rights in the Republic of Moldova deliver a great contribution to the development of legislation and policies in various fields, constantly pursuing respect for human rights in new interventions. Among the most active are Promo-Lex Association, Legal Resource Center from Moldova (LRCM), Lawyers for Human Rights, Alliance of NGOs active in the field of Child and Family Social Protection, Platform for Gender Equality, Moldovan National Platform of the Eastern Partnership Civil Society Forum, Alliance of Organizations for People with Disabilities from Moldova, The National Council of NGOs, Centru de Resurse Juridice din Moldova (CRJM), Transparency International Moldova, and others, carrying out human rights monitoring campaigns and producing alternative reports on the human rights situation in the Republic of Moldova. The work of these organizations is strongly influenced by the framework and content of the United Nations Human Rights mechanism and constitutes, in a democratic society, actual landmarks and indicators of respect for Human Rights.

The National representations of the specialized UN agencies, mirroring through their work the UN effort in ensuring compliance with the international commitments and obligations of the signatory states to observe and respect the Human Rights, represent another factor that drives the CSO dialogue with the public administration. Shortly after the accession of the Republic of Moldova to the UN family, several of these agencies, funds and programs opened, with due consent of the Government of Moldova, country offices in order to support the activities advocating democracy, good governance, prosperity, human rights and strengthening modern and European law-governed state. Currently, over 20 specialized agencies, funds and programs have an office in Chisinau, which through the funding provided to projects of civil society organizations, contribute to strengthening of their capacities to be an effective partner in dialogue with public administration for sustainable development. The intensity of the public administration dialogue with civil society organizations in Moldova has registered a positive dynamic since 2010, when the Moldovan government engaged in an intense dialogue with the European Union to negotiate the signing of an association agreement. Since 2014, *Moldova - EU Association Agreement*, represents a new legal framework to advance relations between Moldova and the EU towards a qualitatively higher stage of political association and economic integration with the EU. At the same time, *observance of the democratic principles, human rights and fundamental freedoms, as proclaimed in the Universal Declaration of Human Rights and defined in the European Convention on Human Rights*, the 1975 final act of the conference on security and cooperation in Europe and the 1990 Paris charter for a new Europe *forms basis of the internal and external policies pursued by the*

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<sup>1</sup> OHCHR. 2014. A practical guide for civil society. Civil society space and the United Nations Human Rights System. [https://www.ohchr.org/Documents/AboutUs/CivilSociety/CS\\_space\\_UNHRSysSystem\\_Guide\\_Romanian.pdf](https://www.ohchr.org/Documents/AboutUs/CivilSociety/CS_space_UNHRSysSystem_Guide_Romanian.pdf)

*Parties and constitutes an essential element of this Agreement (Article 2, Title I, general principles)* <sup>2</sup>. Chapter 4 of the Agreement provides that *the Parties shall strengthen their dialogue and cooperation on promoting the decent work agenda, employment policy, health and safety at work, social dialogue, social protection, social inclusion, gender equality and anti-discrimination, and social rights, and thereby contribute to the promotion of more and better jobs, poverty reduction, enhanced social cohesion, sustainable development and improved quality of life.*

In this dialogue a special place is allocated to civil society organizations, which, through the platforms created under the Association Agreement, continuously monitor the implementation of the Agreement and are involved in the policy dialogue for the implementation of complex structural reforms in Moldova. According to the association agreement Moldova - EU, the Republic of Moldova and the EU will establish and maintain a dialogue with regard to civil society, pursuing the following objectives:

- *strengthening contacts and exchange of information and experience between all sectors of civil society in the European Union and in the Republic of Moldova;*
- *providing for better knowledge and understanding of the Republic of Moldova, including its history and culture, in the European Union and in particular among civil society organisations based in EU Member States, thus allowing for a better awareness of the opportunities and challenges for future relations;*
- *involvement of civil society in EU-Republic of Moldova relations, in particular in the implementation of the Agreement of Association;*
- *civil society participation in the public decision-making process, particularly by establishing an open, transparent and regular dialogue between the public institutions and representative associations and civil society;*
- *institution-building and consolidation of civil society organisations in various ways, including among others: advocacy support, informal and formal networking, mutual visits and workshops in particular in view of improving the legal framework for civil society, etc.*<sup>3</sup>

Cooperation and collaboration between public administration and civil society organisations is an important objective set out in the *Association Agreement* constituting a landmark for the public authorities of the Republic of Moldova in the process of developing and implementing its national legal regulatory framework and public policies in this domain. The association agreement serves for paving grounds of the relationship between the EU and Moldova and compliance with its provisions, sets preconditions for the development of collaborative relations, including such on the size of financial support. Serving as an example is the adoption, in 2020, of the law on non-commercial organizations, flagging the most important change for the CSOs business environment. Adoption of this law (after idling for two years in the Parliament) is largely due to the fact, that the EU included it on the list of conditionalities for granting a tranche of funding to the Republic of Moldova. This fact underscores the importance of international partners in creating a solid business environment for CSOs in the Republic of Moldova.

### **Internal factors**

Speaking about the legal framework of international relations and commitments of the Republic of Moldova and considering, in particular, the *UN Human Rights system and EU-Moldova Association Agreement*, it is worth noticing that conditions transposed at national level, set in foundation of the activity conducted by the civil society and determining the relationship between public authorities and civil society actors are focused on compliance with the following principles:

- *Participation* - the role played by the civil society is fully recognized, while the civil society actors are free to act independently and support positions different from such supported by the public authorities;
- *Non-discrimination* - all civil society actors are invited and empowered to participate in public life, without any discrimination;
- *Dignity* - public authorities and civil society actors pursue the common goal of improving life while concomitantly playing different roles. Mutual respect is crucial in this relationship;
- *Transparency and accountability* - acting in the public interest means openness, accountability, clarity, transparency and responsibility on behalf of the public officials. It is also about transparency and mutual accountability within the CSOs and with regard to the general public<sup>4</sup>.

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<sup>2</sup>Association Agreement between the European Union and the Republic of Moldova.

[https://gov.md/sites/default/files/document/attachments/7048451\\_en\\_acord\\_asociere.pdf](https://gov.md/sites/default/files/document/attachments/7048451_en_acord_asociere.pdf)

<sup>3</sup><https://mfa.gov.md/img/docs/Acordul-de-Asociere-RM-UE.pdf>

Based on the rationale of compliance with these principles, the following are the internal factors directly influencing the relationship between public administration and civil society organizations:

a) *The political and public environment, which enhances the values and encourages civic participation.*

Development of civil society in the Republic of Moldova becomes a certainty in line the gaining its sovereignty and independence, evolving side by side with the public and private sector concomitant with the state institutions development, structural reforms and mentality change in the society. Same as any other social process, development of civil society depended heavily on the political and public environment while experiencing several stages of development: starting with the establishment and moving to consolidation and development. The start-up phase culminated by adoption in 1996 of the law on Public Associations, which complete with further changes and amendments constituted the main legal act governing the activity of public associations until 2020, when the new law on non-commercial organizations was voted.

A period of consolidation, the most responsible and difficult period for the CSOs and for democracy in ensemble, started with launching the first National Forum of Non-Governmental Organizations in the Republic of Moldova in 1997 by the CONTACT Center, with the support of Soros Foundation Moldova and World Bank. During the Forum, representatives of the CSOs from across the country participated in carrying out analysis, discussing and wording recommendations on the important issues facing the Republic of Moldova in general and the civil society in particular<sup>5</sup>. Following this event, the things began evolving upwards, transforming the civil society into a veritable "fourth sector" of the Moldovan society.

All the efforts attempted by them are permanently and actively supported by the development partners of the Republic of Moldova and by the representatives of international organizations, whose agenda includes the rendering support and furthering development of the associative sector. As a result, development of civil society has become one of the national priorities of the state, being reflected in strategic planning documents and policies. In 2008, adopted was the Civil Society Development Strategy for 2009-2011, followed by adoption of the Civil Society Development Strategy for 2012-2015. In 2018, with a 3-yeras break, approved was the strategy for Civil Society Development for 2018-2020. In fact, a 3-years break, (2015-2018), tells us about the "complicated instances" that the civil society in the Republic of Moldova went through, when the country was led by the appointees of an oligarchic regime, while the development of the civil society was far from being a priority. During this period of time, CSOs were the bastions of democracy, which permanently drew public attention to the deviations of rulers from democratic values.

The change occurred in the aftermath of the parliamentary elections of 24 February 2019, followed in June after creation of a new governing coalition by the PSRM (pro-Russian) and ACUM (pro-European). The coalition invested the Government led by Maia Sandu, despite questionable decisions ruled by the Constitutional Court, revised and followed by the *in-corpore* resignation of judges. This political change has wiped out for a short period the anti-OSC rhetoric from political discourse. Yet another consequence was relaxation and openness of public administration institutions with regard to the CSOs. Still, this openness failed result in finding significant solutions at the level of procedures and mechanisms to facilitate cooperation and dialog. In the new political set up, the Prosecutor General's Office proceeded with investigation of cases of violation of the privacy of civic activists, journalists and politicians committed in the time of previous government<sup>6</sup>.

Anti-OSC rhetoric resumed shortly after resignation of the government led by Maia Sandu. A discourse maintained by the representatives of the Party of Socialists *juggles with the idea that the international occult forces would interfere with the domestic political processes through externally funded CSOs, which would cut on grants and jeopardize the independence or even the existence of the state itself*<sup>7</sup>.

Today, the civil society in the Republic of Moldova, as well as the Moldovan society as a whole, live through the "euphoria" of hopes bound to the establishment of a new government, declared pro-European, following the parliamentary elections of 11 July 2021. The electoral program of the ruling party (Action and Solidarity party - PAS), however, to a lesser extent, the Government Program, raised the level of expectations in the society and,

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<sup>4</sup> OHCHR. 2014. A practical guide for civil society. Civil society space and the United Nations Human Rights System.

[https://www.ohchr.org/Documents/AboutUs/CivilSociety/CS\\_space\\_UNHRSystem\\_Guide\\_Romanian.pdf](https://www.ohchr.org/Documents/AboutUs/CivilSociety/CS_space_UNHRSystem_Guide_Romanian.pdf)

<sup>5</sup> Ţugui E., Idis Viitorul. Chisinau, 2013. Non-Governmental Organizations in the Republic of Moldova: evolution, activities and development prospects. p.18, [http://www.viitorul.org/files/4183299\\_md\\_ong\\_site.pdf](http://www.viitorul.org/files/4183299_md_ong_site.pdf)

<sup>6</sup> Giscă Fl. Chisinau 2020. CSO Meter. Assessing the civil society environment in the Eastern Partnership Countries.

[https://csometer.info/sites/default/files/2021-03/Moldova%20Report%20CSO%20Meter%202020%20RO%20final\\_0.pdf](https://csometer.info/sites/default/files/2021-03/Moldova%20Report%20CSO%20Meter%202020%20RO%20final_0.pdf)

<sup>7</sup> CSO Meter. Assessing the civil society environment in the Eastern Partnership Countries, Chisinau 2020

[https://csometer.info/sites/default/files/2021-03/Moldova%20Report%20CSO%20Meter%202020%20RO%20final\\_0.pdf](https://csometer.info/sites/default/files/2021-03/Moldova%20Report%20CSO%20Meter%202020%20RO%20final_0.pdf)

implicitly, within the civil society, talking about the observance of the democratic principles of organizing a society. The environment for carrying out the activity of civil society organizations is rather favorable, the relationship between state authorities and CSOs, however, failed to mark any notable changes, although it is too early to come up, at least, at this stage, with some preliminary conclusions.

b) *Improving the efficiency of the regulatory framework for enhancing civic activism*

Legislation, administrative rules and practice are in line with international standards and safeguard civil society activities. Access to justice for civil society actors, independent and effective national human rights institutions, and access to international human rights mechanisms are all integral to this framework. Sound laws and policies are vital, but will remain ineffectual unless properly implemented<sup>8</sup>.

The content and quality of the relationship between public administration and CSOs relates primarily to the legal conditions and regulations concerning the activity of public administration on the one hand and such of the CSOs, on the other hand, as well as the legal framework governing the collaborative relations and joint activity. The legal framework governing the activity of the civil society in general and that of the CSOs in particular has evolved and developed in parallel with the transformations and developments in Moldovan society since the day of gaining independence onwards. The political power, in the first instance, and public administration, in its quality of emanating political power, determined and influenced the way the civil society developed, creating the prerequisites and conditions for applying legal regulations to its activity. The legal framework governing the activity of CSOs, from the date of their incorporation up to launching a dialogue and cooperation in various fields with public administration authorities, is a complex and constantly evolving procedure. A safe and enabling environment for civil society work must be supported by a robust national legal framework, grounded in international human rights law. Freedoms of expression, association, peaceful assembly, and the right to participate in public affairs, are rights that enable people to mobilize for positive change. Everyone, individually or in association with others, should enjoy these rights. They are central to civic participation.

The legal framework for governing the activity of the CSOs under the aspect of relationship with public authorities can be subdivided into three categories of regulatory acts:

- *General regulatory framework*, establishing constitutional rights and general legal rules applicable to all social relations or subjects of law, either to certain categories of relations or subjects, without loss of generality, (*Constitution of the Republic of Moldova, Civil Code*);
- *General and special regulatory framework*, meant to regulate the principles and rules of incorporation, registration, conduct and termination of the activity, the domains of activity of the CSOs as well as the regulations on the basis of which the dialogue and cooperation of the CSOs with the state authorities in various domains of interaction and development are carried out (*Law on non-commercial organizations No. 86/2020*); *Law No.100/2017 on regulatory acts, Law No. 51 of 23.03.2018 on the approval of the Civil Society Development Strategy for 2018-2020 and the action plan for the implementation of the strategy, Law No. 239 of 13.11.2008 on transparency of the decision-making process, Law No. 982 of 11.05.200 on access to Information, State Budget Law, Law on public procurement No. 131 of 03.07.2015, Law No. 179 of 10.07.2008 on public-private partnership, Law No.1420 of 31.10.2002 on philanthropy and sponsorship, Government Decision No.610 of 03.07.2018 on the approval of the regulation on the government, Government Decision No. 1286 of 30.11.2016 on the approval of the regulation on the mechanism of percentage designation*); *Government Decision No. 967/2016 on the mechanism of public consultation with civil society in the decision-making process.*
- *Related general and special regulatory framework*, meant to establish the principles and conditions for specific collaboration and dialogue, based on the particularities and characteristics of the sectoral areas of collaboration, between Central and local public administration authorities and civil society (*Law No.436 of 28.12.2006 on local Public Administration; Law on administrative decentralization No. 435 of 28.12.2006, Law No. 397 of 16.10.2003 on local public finances, Government Decisions on the organization and functioning of the specialized Central Public Administration authorities, Regulations on the organization and functioning of the specialized central public authorities*), *the social assistance Law No.547 of 25.12.2003; Law on social services No.123 of 18.06.2010; law on social inclusion of persons with disabilities No.60 of 30.03.2012, Law No. 129 of 08-*

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<sup>8</sup> OHCHR. 2014. A practical guide for civil society. Civil society space and the United Nations Human Rights System. [https://www.ohchr.org/Documents/AboutUs/CivilSociety/CS\\_space\\_UNHRSysm\\_Guide\\_Romanian.pdf](https://www.ohchr.org/Documents/AboutUs/CivilSociety/CS_space_UNHRSysm_Guide_Romanian.pdf)

06-2012 on the accreditation of social service providers, Government Decision No. 1286/2016 on the approval of the regulation on the mechanism of percentage designation, etc.

Classification of the regulatory acts pursuant to these principles does not take into account their hierarchy and is based only on their subordinate character to the regulatory areas. The freedom of association is not expressly provided for by the Constitution of the Republic of Moldova (a reference is made only to the parties and other socio-political organizations and trade unions, see Art. 41 and 42)<sup>9</sup>, but since Moldova has ratified both the Universal Declaration of Human Rights of the United Nations and the European Convention on Human Rights of the Council of Europe, these documents became a component part of the country's legislation. In this regard, the Constitution of the Republic of Moldova in Art. 4 stipulates, that, *the constitutional provisions on human rights and freedoms shall be interpreted and applied in accordance with the Universal Declaration of Human Rights, the covenants and other treaties to which the Republic Of Moldova is a signatory*<sup>10</sup>.

In legislative terms there is no generally stipulated and accepted definition of the "civil society organizations" term in the Republic of Moldova. The policy documents (CCDS 2017-2020), the regulatory legal framework, refer to the United Nations definition: *"a not-for profit, voluntary citizen's groups, organized on a local, national or international level to address issues in support of the public good. Task-oriented and made up of people with a common interest, these perform a variety of services and humanitarian functions, bring citizen's concerns to Governments, monitor policy and program implementation, and encourage participation of civil society stakeholders at the community level"*<sup>11</sup>. In recent years, there has been a need to amend the concept, now called the non-profit sector (non-commercial), or the third sector of the society, whereby the first two are the fundamental institutions of the state (public sector) and the business sector.

General legal provisions on non-commercial organisations are contained in the provisions set forth by the Civil Code of the Republic of Moldova No. 1107 of 06.06.2002 (Code). According to the Code, there are three types of Non-commercial organizations: *Association, Foundation and Private Institution*<sup>12</sup>.

*Association* it is a non-commercial organization created voluntarily by the founders, in the manner provided for by law, to satisfy certain non-commercial needs. The association may have the form of a public association, religious cult or a component part of such, party or other social-political organization, Trade Union, patronage, other forms provided for by the law<sup>13</sup>.

*Foundation* it is a non-commercial organization, without membership, established by one or more persons, endowed with distinct patrimony and separate from that of the founders, intended to achieve the non-commercial purposes provided for in the act of incorporation<sup>14</sup>.

*Private institution* is a non-commercial organisation constituted by a single person with the view of achieving certain non-commercial purposes, partially or fully financed by this person<sup>15</sup>.

Starting with 2020, the legal framework regulating the activity of civil society organizations has been supplemented by a new law on non-profit organizations Law No. 86 of 11.06.2020 on non-commercial organizations (Law) that establishes *the principles of incorporation, registration, conduct and winding up the activity of non-commercial organizations, as well as the procedure for obtaining the status of a Public Utility. Provisions of this law do not apply to unregistered organizations (ex. local initiative groups), public institutions, political parties, trade unions, employers, religious cults and their constituent parts, as well as other legal entities governed by public or private law whose incorporation and operation is governed by other special laws. For the purpose of this law, a non-commercial organization is a legal entity whose main objective is other than gaining income. For the purpose of this law, the non-commercial organizations are: Public Association, Foundation and Private Institution.*

The terms *Public Association, Foundation and Private Institution* shall be understood and treated within the meaning of the definitions attested in the law, within the strict area of activity of non-commercial organizations, since stepping out from this framework implies difficulties of interpretation and use. If with regard to *Public Association and Foundation* the things seem to be more or less clear, then *the Private Institution* is not necessarily

<sup>9</sup> Constitution of the Republic of Moldova, Art. 41, 42, [https://www.legis.md/cautare/getResults?doc\\_id=111918&lang=ro](https://www.legis.md/cautare/getResults?doc_id=111918&lang=ro)

<sup>10</sup> Constitution of the Republic of Moldova, Art. 4, [https://www.legis.md/cautare/getResults?doc\\_id=111918&lang=ro](https://www.legis.md/cautare/getResults?doc_id=111918&lang=ro)

<sup>11</sup> <http://www.ngo.bham.ac.uk/Definingfurther.htm>

<sup>12</sup> The Civil Code of the Republic of Moldova (Code No. 1107 of 06.06.2002), Section 5, Art. 296, para. 2, Official Gazette No. 66-75, Art.132, republished on 01.03.2019

<sup>13</sup> Civil Code of the Republic of Moldova (Code No. 1107 of 06.06.2002), Section 5, Art. 297, para.1.2, Official Gazette No. 66-75, Art.132, republished on 01.03.2019

<sup>14</sup> Civil Code of the Republic of Moldova (Code No. 1107 of 06.06.2002), Section 5, Art. 298, para.1, Official Gazette No. 66-75, Art.132, republished on 01.03.2019

<sup>15</sup> Civil Code of the Republic of Moldova (Code No. 1107 of 06.06.2002), Section 5, Art. 299, para.1, Official Gazette No. 66-75, Art.132, republished on 01.03.2019

an organization belonging to the non-commercial sector. Likewise, the *Foundation* under legal terms and conditions of other states may also have certain commercial functions.

The new law governs and replaces the law on public associations of 1996 and the Law on Foundations of 1999 and brings several improvements to the given domain: simplifies the incorporation procedure, eliminates registration fees, eliminates Association restrictions for some categories of persons, introduces a flexible system of internal organization, including a possibility of individual design of the internal administration structure<sup>16</sup>.

For the purpose of relations between public administration and non-commercial organizations, Art. 5 of the Law regulates the relationship between all state authorities and non-commercial organizations. The authorities representing the legislative and judicial power are obliged to ensure freedom of association by creating legal conditions for governing, observing and protecting these rights. The law does not limit communication and dialogue only to discussions and contributions of civil society organizations to policy making, but also provides for the financing of civil society organizations from public funds. Public Administration authorities, by the virtue of the rights, obligations and competences entrusted, shall *provide non-commercial organizations with financial and material support as needed for their organizational development and projects implementation according to the priorities set for each area of development. Allocations for this purpose shall be provided by the state budget as well as by the local budgets*<sup>17</sup>. The financial support granted by the state shall be channelled basically through the non-reimbursable funding, contracting of works and services or through earmarked financing, including social order. Material support provided by the state shall apply mainly by providing free of charge or preferential terms to the right of using public property<sup>18</sup>. Financial support could also be granted through the percentage designation mechanism (also called the 2% mechanism), i.e. an indirect way by which the state renders financial support to non-commercial organizations and cults. The state waives 2% of the income tax of individual taxpayers and allows them to decide which CSO could benefit from this amount. The percentage designation mechanism is established by the regulation, adopted by the Government and provides to the beneficiaries of the percentage designation: procedure of percentage designation, use of the amounts obtained, reporting on the use of these amounts, as well as control and accountability for the use of such.<sup>19</sup>

The non-profit status of the non-commercial organization does not exclude the right to carry out economic activity, including social entrepreneurship. *Economic activity can be exercised either directly by the non-commercial organization, or by setting up legal entities for profit. The work of the non-commercial organization which, according to the law, is subject to licensing can be practiced only after obtaining a license*<sup>20</sup>.

The Law offer the possibilities to CSOs to apply for the “certificate of public utility” which provides, a number of fiscal benefits, preferential use of public property, non-reimbursable financing, earmarked financing (special destination), including, social order. This certificate can be obtained only by CSO that *carry out its activity in the general interest or in the interest of local communities*<sup>21</sup>. At the same time, the role of describing the status of public utility in Chapter V (the statute of Public Utility) is not clear, since all of non-commercial organizations, carry out activities in the field of public utility could, under provisions of Art. 23, para. 3, claim on the benefits offering them the status of Public Utility. In this case, the need to acquire the status of public utility following the procedure provided for by law lapses and the bureaucratic procedures and entities (Certification commissions) do not fit into the relevant legal and institutional logic. This conclusion refers directly to the relationship between public administration and non-commercial organisations and clarifying this situation could directly contribute to strengthening the political dialogue between them.

Development of civil society is of major importance for strengthening the supreme values of any country, but also for encouraging participation of the population in the communities development process. Therefore, part of the national interest of the Republic of Moldova is to support the development of the associative sector, adopt policies and provide for regulatory framework favourable for the activity pursued by the sector. The approval of the Civil Society Development Strategy for 2018-2020 (hereinafter – *Strategy*) mirrors the commitment of the Republic of Moldova to systematically strengthen the conditions underlying the dynamic development of the civil society.

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<sup>16</sup> Report on the Implementation of the Civil Society Development Strategy for 2018-2020, pg. 7, [https://cancelaria.gov.md/sites/default/files/document/attachments/raport\\_strategie\\_dsc\\_2018-2020\\_iii\\_anexe.pdf](https://cancelaria.gov.md/sites/default/files/document/attachments/raport_strategie_dsc_2018-2020_iii_anexe.pdf)

<sup>17</sup> Law No. 86 of 11.06.2020 on non-commercial organizations, Art. 5, para. 4, Official Gazette No.193, Art. 370 of 27.07.2020

<sup>18</sup> Law No. 86 of 11.06.2020 on non-commercial organizations, Art. 5, para. 6, Official Gazette No.193, Art. 370 of 27.07.2020

<sup>19</sup> Government Decision No. 1286 of 30.11.2016 for the approval of the regulation on the percentage designation mechanism, Official Gazette No. 416-422, Art. 1382

<sup>20</sup> Law No. 86 of 11.06.2020 on non-commercial organizations, Art. 6, para. 2, Official Gazette No.193, Art. 370 of 27.07.2020

<sup>21</sup> Law No. 86 of 11.06.2020 on non-commercial organizations, Art. 21, para. 1, Official Gazette No.193, Art. 370 of 27.07.2020

Bearing on the principles of mutual trust, partnership, transparency, participation, political non-partisanship, the strategy continues the efforts started in the framework of the previous strategies for the development of civil society (for 2009-2011 and 2012-2015) while focusing on the same priorities<sup>22</sup>. Over the last eight years, the major objectives of state policy in the field of civil society development have focused on strengthening the framework of participation of the civil society in developing and monitoring the implementation of public policies, promotion and strengthening the financial sustainability of the civil society, and development of the active civic spirit and volunteering. Legislative framework governing the activity of civil society organizations is showing a slight improvement, and the evaluation reports are citing among the notable changes such as adoption of the Law on non-commercial organizations, and development of a single mechanism for the direct financing of the CSOs' projects from the state budget, which shall become applicable as soon as the Government approves the draft Decision on the framework regulation on the mechanism of direct non-reimbursable financing of the projects of non-commercial organizations, found at the final stages of the legislative procedure.

*c) Institutional framework for the activity and participation of civil society in the decision-making process*

Strengthening civil society implies availability and functionality of platforms, alliances and organisations, contributing to the strengthening and enhancing the efficiency of CSOs. There are three major national platforms – the national NGO Council of Moldova, the National Participation Council (NPC) and the national platform of the Eastern Partnership Civil Society Forum. There is a number of NGO networks involved in the policy dialogue with the view of develop the sectors they represent, such as: Alliance of NGOs active in the field of Child and Family Social Protection, Alliance of Organizations for People with Disabilities from Moldova, Network of NGOs active in the field of HIV/AIDS, STI and drug addiction, National Youth Council of Moldova, National Coalition "Life Without Violence", Anti-corruption Alliance, Platform for Gender Equality, Forum of environmental NGOs, etc.<sup>23</sup>

The existence and functionality of these entities makes it easier and more efficient for the CSOs to collaborate with public administration. At the same time, as mentioned earlier, the dialogue and collaboration between CSOs and public authorities has evolved in line with the changes and developments occurring in the society under the influence of internal and external factors. Launching the European Neighbourhood Policy and the strategic resetting of the Republic of Moldova in 2005 opened the prospect of institutionalized cooperation with civil society by adopting Parliament Decision No. 373 of 29.12.2005 on the approval of the concept of cooperation between the Parliament and the civil society<sup>24</sup>. Within the framework of the collaboration mechanism, the document provides for creation of expert councils by the parliamentary standing committees, ongoing consultations, ad hoc meetings, public hearings and annual conferences. These instruments of collaboration used to function sporadically, with no function at all on certain segments, while failing to contribute significantly to improving the framework for civil society participation in the decision-making process at the national level.

The change of government in 2009, accompanied by invigoration of Moldova's relations with the European Union within the framework of the Eastern Partnership brought changes into the state's relationship with the civil society. Implementation by the Government of the Republic of Moldova of a series of reforms coordinated with the European Commission, serves to institutionalization of relations with civil society by creation of the National Participation Council (NPC). The council aimed to develop and promote the strategic partnership between governments, civil society and private sector in order to strengthen the participatory democracy in the Republic of Moldova and contribute to the decision-making process in public policies that respond to the interests of the society<sup>25</sup>. More specifically, the NPC's role was to monitor compliance with the legislation on access to information and transparency in the decision-making process, in particular, bearing on the provisions of Law 238/2008 on transparency in the decision-making process. Participation of the NPC representative in government meetings also provides additional opportunities to intervene on the topics discussed and approved during the meetings. During 2018, there were 9 meetings of the NPC, addressing various topics, such as: elaboration of the National Development Strategy "Moldova 2030", early education, promotion of social policies on adoption, development of social entrepreneurship, etc. The mandate of the NPC members expired in April 2019, while the activity of the Council was never resumed<sup>26</sup>.

<sup>22</sup> Law No. 51 of 23.03.2018 on the approval of the Civil Society Development Strategy for 2018-2020 and the action plan for the implementation of the Civil Society Development Strategy for 2018-2020, Official Gazette No. 157-166, Art.298, [https://www.legis.md/cautare/getResults?doc\\_id=105436&lang=ro](https://www.legis.md/cautare/getResults?doc_id=105436&lang=ro)

<sup>23</sup> Konrad Adenauer Stiftung, IDIS Viitorul. Chisinau 2014. Civil society organizations in the Republic of Moldova: evolution, sustainability and participation in political dialogue. [http://www.viitorul.org/files/4684299\\_md\\_mapping\\_md\\_jdi.pdf](http://www.viitorul.org/files/4684299_md_mapping_md_jdi.pdf)

<sup>24</sup> Parliament Decision no 373 of 29.12.2005 on the approval of the Concept of cooperation between Parliament and civil society [https://www.legis.md/cautare/getResults?doc\\_id=20911&lang=ro](https://www.legis.md/cautare/getResults?doc_id=20911&lang=ro)

<sup>25</sup> Government Decision no. 11 of 19.01.2010 regarding the creation of the National Council for Participation [https://www.legis.md/cautare/getResults?doc\\_id=22834&lang=ro](https://www.legis.md/cautare/getResults?doc_id=22834&lang=ro)

<sup>26</sup> Report on the Implementation of the Civil Society Development Strategy for 2018-2020, pg. 10,

Institutionalization of relations between civil society and state institutions (Parliament and Government) has no legal coverage when we refer to the relationship with local public administration (LPA). This relationship is carried out mainly under the umbrella of the instruments and elements featured by the participatory democracy. Citizens participation in the Local Self-Government act is not clearly defined, viewed only through the prism of compliance with the regulations having regard to the transparency of the decision-making act, and, in the vast majority of cases, it depends on the political will of local public authorities, but also on the civic activism of the community members. A formalized expression of citizen participation at local and national level is represented by the CSOs, that attains to the relationship between the LPA and civil society a better structured and organized image.

The institutionalization of the relationship between public administration and civil society is applied and corroborated through the use of monitoring tools and assessment of the main policy documents in the field of civil society development. According to Civil Society Development Strategy (CSDS) 2018-2020, the monitoring and evaluation of the implementation of the strategy had to be carried out by the use of three instruments, viewed through the prism of the results obtained and bearing on the following progress indicators:

*The first tool* - Monitoring Committee for the implementation of the strategy, created by the decision of the Chairperson of the Parliament and composed of 12 members (3 persons appointed by the CSOs, 3 persons appointed by the Government, 3 persons appointed by the Parliament and 3 persons – by the development partners).

*The second tool* - organization of public hearing and debates resulting in conclusions and recommendations, which, in turn, will be examined during the meetings of the parliamentary committees that will express the opinions of their members on the subject matter of the debates.

*The third tool* - organisation by the Parliament of annual conferences with participation of civil society to examine progress and discuss the shortcomings of the strategy implementation.

In the process of implementing the Strategy, insufficient application of the monitoring and evaluation tools provided for by the strategy has influenced the accomplishment of the institutional framework for collaboration and has considerably reduced the pace of implementation of the objectives and, consequently, the level of involvement of civil society in the process of public issues administration.

The government, given all the problems and delays on this subject, was taking some actions to institutionalize collaboration with civil society. In order to develop the institutional mechanism for collaboration between public authorities and civil society interacting in the process of elaboration, monitoring and evaluation of public policies as well as bearing on best practices of Western world, established at the government level was a structure vested with responsibility for cooperation with civil society. Thus, the subdivision "Directorate of Permanent Secretariats"<sup>27</sup>, was created, with responsibilities related to ensuring cooperation and dialog with civil society, duties taken over in 2020 by the "Directorate for Coordination in the Field of Human Rights and Social Dialogue"<sup>28</sup>.

With the view of relaunching the dialogue and setting up a new mechanism for cooperation with civil society, taking place in December 2019 was the first constituting meeting of the *consultative Platform of civil society representatives to the Parliament of Moldova*. The Platform acts as a consultative body represented by the civil society organizations, business and science, contributing to the objective assessment and resolution of challenges facing the society. There is currently no dynamic in the dialogue between the parliament and CSOs on this platform, as the Parliament elected in June 2021 has not yet announced its intentions referring of maintaining or not the work of the platform.

However, an increasingly active role was gained lately by the *National platform of the Eastern Partnership Civil Society Forum* being a non-institutionalized and apolitical structure, contributing to the promotion of values of the European Union and to the process of implementation of the Moldova-EU Association Agreement. Same applies to the Council of NGOs, acting as a non-formal representative body, designated by the NGO Forum of the Republic of Moldova with the view of enhancing the joint efforts of the NGOs in promoting civil society development in the Republic of Moldova<sup>29</sup>.

In order to achieve the objectives having regard to open government, pursuant to the provisions set out in the *Public Administration Reform Strategy for 2016-2020*, approved by the Government Decision No.911/2016 and Order of the State Chancellery No.305-A of 13.04.2018 created **was the Coordination Committee for Open**

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[https://cancelaria.gov.md/sites/default/files/document/attachments/raport\\_strategie\\_dsc\\_2018-2020\\_iii\\_anexe.pdf](https://cancelaria.gov.md/sites/default/files/document/attachments/raport_strategie_dsc_2018-2020_iii_anexe.pdf)

<sup>27</sup> Government Decision no. 915/2018 regarding the amendment of some Government decisions. Published: 28.09.2018 in the Official Gazette no. 366-376 art. 976

<sup>28</sup> Report on the Implementation of the Civil Society Development Strategy for 2018-2020, pg. 7-8.

[https://cancelaria.gov.md/sites/default/files/document/attachments/raport\\_strategie\\_dsc\\_2018-2020\\_iii\\_anexe.pdf](https://cancelaria.gov.md/sites/default/files/document/attachments/raport_strategie_dsc_2018-2020_iii_anexe.pdf)

<sup>29</sup> Report on the Implementation of the Civil Society Development Strategy for 2018-2020, pg. 11,

[https://cancelaria.gov.md/sites/default/files/document/attachments/raport\\_strategie\\_dsc\\_2018-2020\\_iii\\_anexe.pdf](https://cancelaria.gov.md/sites/default/files/document/attachments/raport_strategie_dsc_2018-2020_iii_anexe.pdf)

**Government**, composed of 8 members, with equal number of representatives from the government and civil society. The mission of this structure is to develop proposals and recommendations on the implementation of the principles of transparent governance, measures to be followed by all Member States of the Open Government Partnership - the initiative joined by the Republic of Moldova. Since the onset of the activity, the Committee hosted 11 meetings (7 of which in 2020), with active participation and contribution with the view of promoting/implementing the principles of open government, which implies free access to information and trust in public institutions. The innovative commitment under the fourth plan envisaged involvement of the Moldovan diaspora in decision-making processes.

Currently, the associative sector in the Republic of Moldova is involved in activities and dialogue in different domains of activity, the major areas are: education and training (50%), social services (40.8%), Community Development (36.9%), civic participation (26.2%), health and youth (19.2% each), and culture (16.9%)<sup>30</sup>.

d) Ensuring financial sustainability of the activity performed by the CSOs and engaging population and private sector in the process of rendering support to CSOs activities

Institutionalization of the social organizations is a process as well as a condition (status). It is a process by which social institutions are strengthened and perpetuated over time, but also a condition defined by the level of the social institution presence in the collective consciousness. The institutionalization became a distinct topic of study in the modern science with numerous references made to the institutionalization of systems or political parties, proven by the multitude of the features attained to this phenomenon in the specialized literature. However, in case of the non-commercial organizations acting in the Republic of Moldova, the institutionalization implies taking into consideration the following determinants: *autonomy, transparency, competitiveness and socialization*. *The autonomy* is the first condition of launching the institutionalization of non-governmental organizations in the Republic of Moldova, a condition that covers a spectrum of properties, starting with the legal framework of activity and capturing the entire political-legal relation within the society. *The financial autonomy* is, perhaps, the most important feature of this element, due to which one could cross over from financing of the associative sector to other generalizations<sup>31</sup>.

Moldova is a country where the CSOs are highly dependent on the external sources of financing. Domestic sources of self-financing are insufficiently developed, while the value of the existing ones is insignificant. In principle, the non-commercial organisations could carry out some auxiliary economic activities provided for in their charters. However, this provision, for various reasons, cannot be applied in practice, including the fact that the CSOs are not aware of the practical ways of filing applications, but also because of the reticence of the public authorities.

The experience of other countries shows the need for more mechanisms and tools in order to boost the financial sustainability of civil society as a precondition for creating a favourable climate to that end. Thus, in order to ensure the financial viability of the CSOs, it is necessary to implement the following three sets of mechanisms:

- a) *direct and indirect public financing* - tax facilities or exemptions, grants, budget subsidies, grants for earmarked public utility purposes, contracts for the provision of social services;
- (b) *private philanthropy* - tax deductions for donors, including return on donations; redirection of certain percentage of the taxpayer income tax;
- (c) *revenue generation* - providing favourable environment for carrying out economic activities; facilitation of social entrepreneurship activities, etc.<sup>32</sup>.

According to the national legislation on public financing of activities / programmes implemented by the CSOs (*direct and indirect public financing*), it could be subdivided into 2 categories:

- *direct financing*- implies direct allocation of financial support to a CSOs from the central or local public budget, reflected as budgetary expenditure in the respective financial year. In general, the envisaged financial means are redirected through various government institutions (ministries or funds) or made available from other public sources (local budgets). According to the analysis of the state budget law, the respective resources, in some cases, appear as clearly determined budget lines for this purpose (eg. support of cultural projects/programs implemented by the Public Associations), while in other cases, these are included in the general line of expenditure split up by the domains (eg. the amount of grants for youth CSOs is not set in a separate line in the state budget law);

<sup>30</sup>Law No. 51 of 23.03.2018 on the approval of the Civil Society Development Strategy for 2018-2020 and the Action Plan for the implementation of the Civil Society Development Strategy for 2028-2020, [https://www.legis.md/cautare/getResults?doc\\_id=105436&lang=ro](https://www.legis.md/cautare/getResults?doc_id=105436&lang=ro)

<sup>31</sup> Țugui E., Idis Viitorul. Chisinau, 2013. Non-Governmental Organizations in the Republic of Moldova: evolution, activities and Development Perspectives. p. 54 [http://www.viitorul.org/files/4183299\\_md\\_ong\\_site.pdf](http://www.viitorul.org/files/4183299_md_ong_site.pdf)

<sup>32</sup>Law No. 51 of 23.03.2018 on the approval of the Civil Society Development Strategy for 2018-2020 and the Action Plan for the implementation of the Civil Society Development Strategy for 2028-2020, [https://www.legis.md/cautare/getResults?doc\\_id=105436&lang=ro](https://www.legis.md/cautare/getResults?doc_id=105436&lang=ro)

- *indirect financing*- does not include any direct transfers of cash or property. It represents a benefit granted to CSOs which allows them to use the respective assets to meet their statutory objectives. Such support does not appear in the public budget as a direct expenditure. This type of support also includes tax breaks.

Direct financing applies in case of paying for services within the competence of the public sector and also used to finance CSOs programmes/projects/activities that fall within the priorities set forth by the CPA and LPA. Direct financing is done through a number of forms of financing, provided for in the law of the state budget: *state allowances/ grants, services contracting and project grants*. Although in the last decade the amount of financial resources allocated by the state on direct financing of CSO projects has increased considerably, the Republic of Moldova has not been able to make much progress in developing the effective mechanism for direct financing of the CSOs<sup>33</sup>.

The private philanthropy funding mechanism has made progress in the last 5 years. Improving the mechanism for redirecting 2% of the income gained by the individuals and streamlining the mechanism of sponsorship, philanthropy and deduction of donations, makes the essence of private philanthropy in the Republic of Moldova and is deemed as an important element in the process of ensuring financial sustainability of the civil society. In order to facilitate application of the percentage designation mechanism (2%) the official website was built: [www.2procente.info](http://www.2procente.info) clearly described on the pages of which are the modality, mechanism, stages, beneficiaries and benefits of the application of this mechanism.

The statistics of the first three years of implementation of the 2% mechanism shows that the 2% mechanism is still at its early stage while its potential is quite high. In 2019, only 2.8% of taxpayers with the right to designate such ended up exercising this right and only 9% of the total possible amount possible was de facto directed. In total, for 3 years following implementation of the 2% mechanism, the organizations received the amount worth MDL 16 143 952,26<sup>34</sup> (about 800,000 euros).

This new way of supporting civil society is inspired by the application of similar mechanisms in Romania, Hungary and other European countries, hence in addition to contributing to the financial sustainability of civil society it helps promoting the culture and tradition of philanthropy in the society. Percentage designation procedure has a number of benefits for non-governmental sector as well as for the population and community.

In 2019, constituted by the representatives of civil society was a *Platform for Development and Promotion of Philanthropy in the Republic of Moldova*. The mission of thus created platform is to contribute to the promotion and development of philanthropy in the Republic of Moldova and, importantly, to improve the legislation in the field (Law on Philanthropy and Sponsorship). In July 2020, *the Platform for Development and Promotion of Philanthropy* produced a *Study* analysing the philanthropic situation in the country in the context of the Covid-19 pandemic. In October 2020, the members of the Platform, together with experts in the field and development partners, presented the *Code of Ethics and Conduct of the Charity and Sponsorship Sector*.

Strengthening the financial sustainability of CSOs would allow them to reinforce their independence in the process of collaboration and dialogue with the public administration as well as reduce their dependence on external financial resources. For this reason, one of the dimensions of CSO dialogue with public administration in recent years has focused on strengthening the legislative framework that would allow CSOs to carry out revenue-generating activities. Amending the Law No. 845/1992 on Entrepreneurship and Enterprises with Chapter VI, (1): *Social entrepreneurship and social enterprise*, adopting Government Decision No. 1165 of 28.11.2018 on the approval of the list of types of activity constituting social entrepreneurship, Regulation on the organization and functioning of the National Commission for Social Entrepreneurship, Regulation on organizing and carrying out competition for the selection of members of the National Commission for Social entrepreneurship from the representatives of civil society – are the most important results of the CSOs dialog with central public authorities on promoting social entrepreneurship. A unified system for monitoring and evaluating social enterprises remains to be created, which would make it possible to assess the degree of development of social entrepreneurship in the Republic of Moldova<sup>35</sup>.

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<sup>33</sup> Palihovici L. Chisinau.2018. Direct financing of CSOs by the state in the Republic Of Moldova. <http://ivcmoldova.org/finantarea-directa-a-osc-de-catre-stat-in-republica-moldova-liliana-palihovici/>

<sup>34</sup> State Chancellery. Report on the Implementation of the Civil Society Development Strategy for 2018-2020. pg. 11, [https://cancelaria.gov.md/sites/default/files/document/attachments/raport\\_strategie\\_dsc\\_2018-2020\\_iii\\_anexe.pdf](https://cancelaria.gov.md/sites/default/files/document/attachments/raport_strategie_dsc_2018-2020_iii_anexe.pdf)

<sup>35</sup> GIZ, Ministry of Economy and Infrastructure. 2019. Situation analysis report on the current status of things and challenges regarding development of social entrepreneurship in the Republic of Moldova. [http://antreprenoriatsocial.md/media/files/files/raport\\_de\\_analiza\\_antreprenariat\\_social\\_0\\_2739266.pdf](http://antreprenoriatsocial.md/media/files/files/raport_de_analiza_antreprenariat_social_0_2739266.pdf)

Despite all the progress made in strengthening the financial sustainability of CSOs in Moldova, the vast majority of their revenues remain from external donors. According to the CSO Meter 2019 report, in 2017-2018, 75% of the monitored organizations reported on the receipt of the external funds. Other sources of income were donations from individuals (36%), the 2% percentage designation mechanism (41%), membership fees (30%), funding from the public budget (20%), support from economic agents (20%), and gained through economic activities (21%). According to the data made available by the National Bureau of Statistics, the 2.223 CSOs that filed their financial statements in 2019, reported total revenue of about USD 175 million in 2018, which is by USD 16 million more compared to 2017<sup>36</sup>. The international partners increased the size of budgets for local CSOs funding programmes (over 20 million euros for programmes launched in 2019-2020 from the EU alone)<sup>37</sup>. The USAID allocated USD 15 million for governance and civil society projects in 2019, showing an increase of USD 12 million compared to 2018. Another major donor is the Swedish Agency for Development and International Cooperation (SIDA), which allocated USD 3.2 million in 2019 for projects developed and implemented by the CSO<sup>38</sup>.

e) *Boosting access to information and ensuring the right to participate in the decision-making process*

Low participation and the inactivity of citizens with regard to administration of public affairs is one of the core problems distinguishing societies in transition. In this context, the role of civil society organizations in ensuring a genuine participatory democracy is essential. The degree of involvement of civil society in this process is determined by a number of factors, such as the social-economic environment, imposing the standard of living of the population; the deficiencies of the education system in embedding the civic engagement; the legislative issues having regard to providing access to information and ensuring decision-making transparency; missing institutional mechanisms for cooperation and collaboration; the reduced capacity of CSOs to provide alternative ways of participation and involvement of citizens in decision-making, etc.

Participation of non-commercial organizations in the process of managing public affairs is done by using several basic tools: *access to information of public interest, compliance with the principles of decision-making transparency and mechanisms ensuring participation and involvement*. Available in the Republic of Moldova is a regulatory framework dedicated to decision-making transparency and access to information. However, according to some analysis and research, still pending is a number of problems having regard to the ambiguity and interpretation of provisions, respectively, as well as some problems of non-compliance with the provisions of this regulatory framework. In other words, the legal regulatory framework for ensuring access to information and decision-making transparency needs to be assessed and supplemented, so as to mirror the content of the problems and challenges mentioned. A number of analyses highlight the need for serious and systemic interventions in the legislation governing access to information and decision-making transparency, as well as the need to establish a simple and enforceable mechanism with efficiency indicators capable of boosting the role of civil society in the administration of public affairs. According to the Country Report produced by SIGMA, *the legislation on access to information of public interest was made effective, but it does not cover the content of public information that should be proactively disclosed by the administration, while the responsibility for monitoring the implementation of law has not been assigned to any of the institutions. Consequently, there is no statistical data on this issue, nor does it ensure the proactive disclosure of public information or public awareness of the right of access to information*<sup>39</sup>.

Law No. 239/2008 on transparency in the decision - making process does not expressly provide for the publication of draft decisions, including the announcement of the initiation of elaborating such, on the Official Web pages maintained by the central public administration authorities, which creates confusion with application of those provisions. The deadline of not more than 15 working days for the submission of recommendations on draft decisions gives the CPA authorities an opportunity to set unduly short deadlines and thus limit the participation of stakeholders in the decision-making process<sup>40</sup>.

Ensuring transparency in the activity of Public Administration has not yet become a rule for the authorities to follow. Thus, *web pages* maintained by the central public authorities are not sufficiently up-to-dated. In particular, rather often missing from the web are series of mandatory information, in particular: planned and executed budgets;

<sup>36</sup> USAID, FHI360, ICNL.2019. Sustainability Index of the CSOs in the Republic of Moldova in 2019 <https://management.md/wp-content/uploads/2020/09/CSO-Sustainability-Index-2019.pdf>

<sup>37</sup> Report on the Implementation of the Civil Society Development Strategy for 2018-2020, pg. 7, [https://cancelaria.gov.md/sites/default/files/document/attachments/raport\\_strategie\\_dsc\\_2018-2020\\_iii\\_anexe.pdf](https://cancelaria.gov.md/sites/default/files/document/attachments/raport_strategie_dsc_2018-2020_iii_anexe.pdf)

<sup>38</sup> USAID, FHI360, ICNL. 2019. Sustainability Index of the CSOs in the Republic of Moldova in 2019, , [www.management.md/wp-content/uploads/2020/09/Indexul-Sustenabilitatii-CSOs-2019.pdf](http://www.management.md/wp-content/uploads/2020/09/Indexul-Sustenabilitatii-CSOs-2019.pdf)

<sup>39</sup> SIGMA, *The Principles of Public Administration*, R. Moldova, 2015, 128 p., [https://cancelaria.gov.md/sites/default/files/document/attachments/sigma\\_raport.pdf](https://cancelaria.gov.md/sites/default/files/document/attachments/sigma_raport.pdf)  
<sup>40</sup> Law No. 51 of 23.03.2018 on the approval of the Civil Society Development Strategy for 2018-2020 and the Action Plan for the implementation of the Civil Society Development Strategy for 2028-2020, [https://www.legis.md/cautare/getResults?doc\\_id=105436&lang=ro](https://www.legis.md/cautare/getResults?doc_id=105436&lang=ro)

results of Public Procurement; anti-corruption activities; results of check-ups carried out in the institutions. Moreover, there is no law setting the requirements for the web pages maintained by the Central autonomous public authorities, e.g., National Bank of Moldova, Court of Accounts, National Energy Regulatory Agency, National Commission for Financial Market, Competition Council, etc. The mechanism for permanent monitoring of compliance with the provisions of normative acts is missing. The obligation to establish this mechanism arises in line with the adoption of the Law on regulatory acts No. 100 of 22.12.2017.58. The law governs the categories and regulatory acts hierarchy, the stages and rules of project development, requirements for structure and content of the regulatory acts, as well as the rules on monitoring the implementation of the provisions set out in the regulatory acts<sup>41</sup>. These gaps influence negatively the process of dialogue and cooperation with CSOs.

Pursuant to the Government Decision No. 967/2016 on the mechanism of public consultation with civil society in the decision-making process, the State Chancellery, ministries, other central bodies and their decentralized public services ought to update the internal procedures on transparency in decision-making; designate responsible focal points for coordinating public consultation process with civil society in the decision-making process; set up the institutional civil society information hotline; develop, update and publish the list of non-commercial organizations by domains of activity and cooperation<sup>42</sup>.

Regarding the applicability of the public consultation mechanism with civil society in the decision - making process in 2020, out of 21 Central Public Authorities - 11 have developed the internal procedures/regulations on transparency in the decision-making process while another two have reported on the intention to issue an internal order in this regard as soon as possible. All 21 authorities have appointed / updated their focal points for coordination of public consultation process, 21 authorities have set up and maintain a functioning hotline for information, including for collaboration with civil society, and 11 authorities have developed and published on their official website the lists of stakeholders with whom they work in the domains of their competence<sup>43</sup>.

From the analysis of data received for 2020, it follows, that about 94% of the approved draft decisions and laws were submitted for public consultations, the rest were approved as a matter of urgency. These data are available at the level of the Central Public Administration, the situation related to the principles of ensuring decision transparency and the right of free access to information being even more complicated, when referring to the Parliament of the Republic of Moldova, but also to the local public administration.

Enforcement as of 28.10.2018 of the amendments to Art.161 "liability for non-compliance with transparency in the decision-making process" of Law No. 239/2008 on transparency in the decision-making process, (introduced by Law No.161/2016 on making changes and amendments to some of the legislative acts), according to which "the Individuals and senior officials responsible for the violations under the Code of administrative offenses of the Republic of Moldova", ensured a better responsibility of the authorities for duly implementation of the principle of transparency, both at the central and local levels. Still, this provision is rarely implemented, which indicates low capacity of civil society to actively engage in public processes, to demand and to be insistent enough, when talking about securing the fundamental human rights and the role that civil society must play in the community.

Freedom of expression, association and peaceful assembly, as well as the right to participate in public life, are the opportunities for people to share ideas, create new concepts and join others to claim on their rights. By exercising these public freedoms, we make informed decisions with regard to economic and social development. Bearing on these rights, we could participate in civic activity and build democratic societies. Restricting such undermines the collective progress in our societies.<sup>44</sup> The role of civil society organizations in paving this progress, promoting and proliferating democratic rights and values is essential and fundamental while exercising such depends on each and everyone.

## Conclusions

The legal conditions and overall rate of development of civil society organizations, the degree of dialogue and cooperation of CSOs with public authorities, and the role of CSOs in increasing the general accountability of

<sup>41</sup> Palihovici S, Palihovici L. Chisinau. 2020. Accountability and transparency in public administration: key element of the Public Administration Reform. <http://dspace.aap.gov.md/handle/123456789/1487>

<sup>42</sup> State Chancellery, 2021. Report on ensuring transparency of the decision - making process by the central Public Administration authorities, , [https://cancelaria.gov.md/sites/default/files/document/attachments/raport\\_transparenta\\_2020\\_3\\_4\\_mai.pdf](https://cancelaria.gov.md/sites/default/files/document/attachments/raport_transparenta_2020_3_4_mai.pdf)

<sup>43</sup> State Chancellery. 2021. Report on ensuring transparency of the decision - making process by the central Public Administration authorities. [https://cancelaria.gov.md/sites/default/files/document/attachments/raport\\_transparenta\\_2020\\_3\\_4\\_mai.pdf](https://cancelaria.gov.md/sites/default/files/document/attachments/raport_transparenta_2020_3_4_mai.pdf)

<sup>44</sup> Practical guide for civil society. Civil society space and the United Nations Human Rights System, UNHR, 2014. [https://www.ohchr.org/Documents/AboutUs/CivilSociety/CS\\_space\\_UNHRSystem\\_Guide\\_Romanian.pdf](https://www.ohchr.org/Documents/AboutUs/CivilSociety/CS_space_UNHRSystem_Guide_Romanian.pdf)

authorities to their own citizens - are important elements in the development of a democratic society, without which a modern and developed society is unimaginable. The current situation of the CSOs in Moldova and their dialog with public administration, can be summarized as follows:

- There are no permanent mechanisms or platforms for cooperation and consultation, open to all;
- Civil society participation is limited to a small number of active national CSOs, and there are no incentives for the growth of CSOs.
- LPAs, compared to CPAs, enjoy a much higher level of “trust” from the community, but they rarely have the resources and skills to conduct a constructive dialogue with CSOs;
- There is a proven reluctance of the public administration to deepen the dialogue and cooperation with the civil society;
- The culture of participation is very weak as there is no perception that participation is an instrument of change.

At the same time, Moldova has made some progress in the last 10 years in improving the legal framework that facilitates this dialogue. So,

- A new law on non-profit organizations was approved, which simplifies the registration procedure, eliminates the registration fee, removes association restrictions for some categories of people, introduces a flexible system of internal organization, including the possibility of individual design of the administration structure intern;
- Strategies for strengthening civil society organizations have been developed and implemented by the national Government;
- The necessary legal framework was approved for a better accountability of the authorities for the proper implementation of the principle of transparency at both central and local level;
- Additional mechanisms have been developed to strengthen the financial sustainability of civil society organizations;
- The volume of financial resources allocated to the financing of projects, according to the public policy priorities, implemented by civil society organizations has been increased.

Despite all the mentioned progress, Moldova must continue to invest in low enforcement mechanisms. Even if the legal framework was approved for a better accountability of the authorities for the proper implementation of the principle of transparency at both central and local level, this provision is very rarely implemented, which tells us about the low capacity of civil society organizations to be actively involved in public processes, to demand and to be sufficiently insistent, when we talk about ensuring the fundamental human rights and the role that civil society organizations must play in society. Ensuring transparency in public administration activity has not yet become a rule for the authorities to follow.

At the same time, it should be noted that public authorities are not yet fully aware of the value of the dialogue, which is sporadic and guided by certain interests, that do not always coincide with the public interest. The political factor is also of great influence, as in recent years there has been an increasing pressure on the civil society organizations.

In order to increase the efficiency of its dialogue with CSOs, it is advisable for the national Government

- to finance and implement more programs that promote active citizenship;
- to strengthen decision-making transparency mechanisms and do not admit in any way the violation of public consultation rules both at central and local level;
- to allocate sufficient funds from the national budget for the implementation of procedures to ensure the transparency of decision-making processes. This will provide an opportunity to demand more accountability from the LPA and would directly lead to a strengthening of policy dialogue with local civil society organizations. At the same time, it will ensure the sustainability of dialogue platforms, which were effective in Moldova, but ceased to operate due to the lack of financial resources needed to maintain the secretariat of these platforms;
- to promote positive models of dialogue, and especially the results of this dialogue, that would serve as a good incentive for citizens to get involved, and increase their confidence that the administration really cares about their opinion, and are not invited to the consultation just to check that they have performed this procedure.

## References

### Laws and Governmental decisions

1. Constitution of the Republic of Moldova. <https://cutt.ly/vEsxHXs>
2. Code no. 1107 of 06.06.2002. Civil Code of the Republic of Moldova. <https://cutt.ly/wEsxZs8>
3. Law no. 86 of 11.06.2020 regarding non-commercial organizations. Official Gazette no. 193, art. 370 of 27.07.2020
4. Law no. 51 of 23.03.2018 on the approval of the Civil Society Development Strategy for the period 2018-2020 and of the Action Plan for the implementation of the Civil Society Development Strategy for the period 2028-2020. <https://cutt.ly/yEsxCaT>
5. Law no. 837 of 17.05.1996 on public associations. Official Gazette of the Republic of Moldova No. 6 of 23.01.1997
6. Law on social services no. 123 of 18.06.2010. Official Gazette of the Republic of Moldova No. 155-158 of 2010
7. Law on social inclusion of persons with disabilities no. 60 of 30.03.2012. Official Gazette of the Republic of Moldova No. 155-159 of 27.07.2012
8. Law no. 436 of 28.12.2006 on local public administration. Official Gazette of the Republic of Moldova No. 32-35 of 09.03.2007
9. Law on administrative decentralization no. 435 of 28.12.2006. Official Gazette of the Republic of Moldova No. 29-31 of 02.03.2007
10. Law no. 131 of 03.07.2015 on public procurement. Official Gazette of the Republic of Moldova No. 197-205 din 31.07.2015
11. Law no. 581-XIV of 30.07.99 on foundations. Official Gazette of the Republic of Moldova No. 118-119 din 28.10.1999
12. Law no. 215 of 29.07.2016 on youth. Official Gazette of the Republic of Moldova No. 315-328 of 23.09.2016
13. Parliament Decision no 373 of 29.12.2005 on the approval of the Concept of cooperation between Parliament and civil society [https://www.legis.md/cautare/getResults?doc\\_id=20911&lang=ro](https://www.legis.md/cautare/getResults?doc_id=20911&lang=ro)
14. Government Decision no. 1286 of 30.11.2016 for the approval of the Regulation on the percentage designation mechanism, Official Gazette no. 416-422, art. 1382.
15. Government Decision no. 11 of 19.01.2010 on the creation of the National Council for Participation. Official Gazette no. 8-10 art. 42, of 22.01.2010
16. Government Decision no. 915/2018 regarding the amendment of some Government decisions. Official Gazette no. 366-376 art. 976, of 28.09.2018
17. Government Decision no.763 / 2020 on amending the Government Decision no.657 / 2009 for the approval of the Regulation on the organization and functioning, structure and staff of the State Chancellery. Published: the Official Gazette No. 272-277 art. 897 of 23.10.2020
18. Association Agreement between the European Union and the Republic of Moldova. <https://cutt.ly/sEsxBZp>

### Articles

19. Gîscă FI. Chişinău 2020. CSO Meter. Assessing the civil society environment in the Eastern Partnership Countries. <https://cutt.ly/ZEsx9eT>
20. Palihovici L. Chisinau 2018. Direct financing of CSOs by the state in the Republic Of Moldova. <https://cutt.ly/aEsx4uI>
21. Palihovici S, Palihovici L. Chişinău 2020. Accountability and transparency in public administration: key element of the Public Administration Reform.. <https://cutt.ly/wEsx54j>
22. Țugui E., IDIS Viitorul. Chişinău. 2013. Non-Governmental Organizations in the Republic of Moldova: evolution, activities and development prospects.. <https://cutt.ly/2Escwmq>

## Reports

23. State Chancellery. 2021. Report on ensuring transparency of the decision - making process by the Central Public Administration authorities. <https://cutt.ly/JEsctsK>
24. SIGMA. 2015. *The Principles of Public Administration*. Moldova. <https://cutt.ly/SEscdsd>
25. Konrad Adenauer Stiftung, IDIS Viitorul. Chişinău 2014. Civil society organizations in the Republic of Moldova: evolution, sustainability and participation in political dialogue. <https://cutt.ly/pEschEy>
26. GIZ, Ministry of Economy and Infrastructure. 2019. Situation analysis report on the current status of things and challenges regarding development of social entrepreneurship in the Republic of Moldova. <https://cutt.ly/YEscck7v>
27. USAID, FHI360, ICNL. 2020. 2019 Civil Society Organization Sustainability Index. <https://cutt.ly/YEscx0G>
28. State Chancellery. 2020. Report on the Implementation of the Civil Society Development Strategy for 2018-2020. <https://cutt.ly/oEscb1F>
29. OHCHR. 2014. A practical guide for civil society. Civil society space and the United Nations Human Rights System. <https://cutt.ly/5EscW3j>